IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3947 OF 2005
IN
SUIT NO.2536 OF 1995

Ashok M. Shanbhag ... Plaintiff

Vs.

Avinash D. Palekar & Ors. ... Defendants

Mr. B.B. Parekh for the plaintiff.

Mr. Mahesh Londhe i/b Sanjay Udeshi & Co. for defendant 2.

Mr. Sunil Purohit with Mr. Ashok Verma i/b Sheela K. Mistry for defendants 3 and 4.

CORAM : SMT. RANJANA DESAI, J.

DATED : AUGUST 9, 2007.

P.C.:-

1. This notice of motion is taken out by original defendant 4 for the following reliefs :

> *"(a) This Hon' ble Court be pleased to condone the delay if any, in filing the present Notice of Motion.*
>
> *(b) That pending the hearing and final disposal of the present suit, the Plaintiff and/or Defendant No.2*

be directed to deposit 250 shares of the Defendant No.2 company along with accrued benefits thereto with the Prothonotary & Senior Master, High Court, Bombay, pursuant to order dated 10th June, 2003 and 17th June, 2004.

(c) That pending the hearing and final disposal of the present suit, Plaintiff and/or the Defendant No.2, be pleased to injunct transferring and/or alienating and/or creating any third party rights with respect to 250 shares of Defendant No.2 company presently in the name of the plaintiff or any other persons claiming through him.

(d) In the alternative to the prayer (b) and (c) above, this Hon'ble Court be pleased to direct the Plaintiff and/or Defendant No.2 to deposit 250 shares of Defendant No.2-company along with all accrued benefits with the Prothonotary & Senior Master, High Court, Bombay.

(e) Ad-interim reliefs in terms of prayer (b) & (c) or (d) above."

2. We have heard the learned counsel appearing for the plaintiff, defendant 2-company and defendant 4. My attention is drawn to the order dated 4/5/2007 passed by Dr. Justice D.Y. Chandrachud in Company Appeal No.13 of 2007. By the said order, the company appeal is admitted. The material portion of the said order reads as under :

> "Admit.
>
> To be placed for hearing and final disposal on 21st June, 2007. In the meantime, the ad-interim order of status-quo shall continue to operate in respect of the shares forming the subject matter of appeal. The respondent shall furnish details of all the benefits which have been obtained in respect of shares in question."

3. Admittedly, present respondent 4 is the petitioner therein and the present petitioner is respondent 2 therein. In the circumstances of the case, in my opinion, in view of the order of status quo passed by Dr. Justice Chandrachood, in fact, no separate order is necessary. In any case, the notice of motion can be disposed of by passing a similar order. Hence, the following order :

4. The ad-interim order of status-quo in Company Appeal No.13 of 2007 is passed in this suit also and it shall continue to operate during the pendency of the instant suit. Liberty to the parties to approach this court for variation of the present order if circumstances so demand. Notice of motion is disposed of.

[SMT. RANJANA DESAI, J.]